

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

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**RLI INSURANCE COMPANY**

**PLAINTIFF**

**v.**

**No. 1:04CV53**

**B&W CONTRACTORS, INC. et al**

**DEFENDANTS**

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**ORDER**

Plaintiff has filed a motion seeking for this court to reconsider its order continuing the trial set in this action. The court remains of the view that a continuance is necessary in order that discovery may be completed in this case, but the court is sympathetic to plaintiff's concern that the trial in this case move forward with all possible speed. The court therefore orders that the parties complete any remaining discovery in this matter within thirty (30) days of this order. Following the completion of such discovery, plaintiff should submit a revised summary judgment motion within ten (10) days, and defendants should submit their response and any counter-motion within ten (10) days of such revised motion. The court will set a new trial date in this action at some point shortly thereafter, and the court will treat the second motion for summary judgment as a priority matter.

Plaintiff has currently pending before the court a motion for summary judgment in which it seeks for the court to award it hundreds of thousands of dollars pursuant to the parties' contractual agreements. In response to plaintiff's motion, defendants have largely relied upon what they contend is the incomplete record resulting from their inability to have completed needed discovery. The court is hesitant to decide this case when the record is alleged to be

incomplete, but the court's patience for continued discovery delays is very limited. The court is unable to determine which party is at fault for the discovery delays to date, but the court cautions the parties that it will very closely scrutinize the stated reasons for any inability to complete discovery within the thirty days specified in this order. Moreover, defendants are cautioned that they will be required to present substantive arguments in response to any second summary judgment motion filed by plaintiff, rather than relying upon the allegedly incomplete record. The court intends to move this case forward with all due speed, and the parties are advised to schedule any mediation attempts accordingly.

In light of the foregoing, plaintiff's motion to reconsider [67-1] is denied. Plaintiff's motion for summary judgment [47-1] is dismissed without prejudice, and plaintiff is instructed to file a second motion for summary judgment following completion of discovery, as specified in this order.

This is the 6<sup>th</sup> day of September, 2006.

/s/ Michael P. Mills  
UNITED STATES DISTRICT JUDGE